



MINUTES OF MEETING OF **THE** CITY
COUNCIL OF THE CITY OF HAYWARD
City Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, December **12, 2000**, 5:00 p.m.

MEETING

The Regular Meeting of the City Council was called to order by Mayor Cooper at 8:00 p.m., followed by the Pledge of Allegiance led by Council Member Ward.

ROLL CALL

Present : COUNCIL MEMBERS Jimenez, Hilson,
Rodriquez, Ward, Dowling, **Henson**
MAYOR Cooper
Absent: None

PRESENTATION: Business Recognition Award

The final Business Recognition Award for the year 2000 was presented to Escolta Fine Arts. In 1995, Gregory Escolta and his sister, Merly Escolta, owners of the wholesale arts and framing business, moved their gallery to Hayward ~~from~~ San Francisco. They strive to promote the cultural richness and diversity of our community. The award was presented to Escolta Fine Arts in recognition of their contribution to enhance the awareness and appreciation of the arts and Hayward's cultural diversity. Mr. Greg Escolta, Merly Escolta, and John Carling, framing manager, accepted the award from Mayor Cooper.

PUBLIC COMMENTS

Jason **Moreno**, 25200 Carlos Bee Boulevard, thanked Al Reynolds for his efforts on behalf of the Veteran's Day parade held last month in Fremont. He commended everyone for the honor shown to veterans through this event.

Beatrice Thornton, 512 **Pinedale** Court, expressed support of Unions regarding the Sam's Club discussion during ~~the~~ last meeting.

BOARDS/COMMISSIONS

1. Appointment to Planning Commission/Administer Oath of Office

Staff report submitted by City Clerk Reyes, dated December 12, 2000, was filed.

It was moved by Council Member Ward, seconded by Council Member **Henson**, and unanimously carried to adopt the following:

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Resolution 00- 186, “Resolution Confirming the Appointment of Christopher Thnay to the Planning Commission”

City Clerk Reyes then administered the oath of office to Mr. Thnay.

CONSENT

Item 5 was removed for further discussion.

2. Approval of Minutes of the City Council Meeting of November **28, 2000**

It was moved by Council Member Henson, seconded by Council Member Hilson, and unanimously carried to approve the Minutes of the City Council Meeting of November **28, 2000**.

3. Clawiter Road/Breakwater Court Traffic Signal: Approval of Addendum No. 1 and Award of Contract

Staff report submitted by Deputy Director of Public Works Bauman, dated December 12, 2000, was filed.

It was moved by Council Member Henson, seconded by Council Member Hilson, and unanimously carried to adopt the following:

Resolution 00-187, “Resolution Approving Addendum No. 1 for Installation of the Clawiter Road and Breakwater Avenue Traffic Signal Project, Project No. 5707, and Award of Contract to St. Francis Electric”

4. Adoption of a Resolution Accepting the Report and **Adopting** Findings Related to Fees Collected for Development Projects that are Subject to the Requirements of the Mitigation Fee Act

Staff report submitted by Budget Director Rohrer, dated December 12, 2000, was filed.

It was moved by Council Member Henson, seconded by Council Member **Hilson**, and unanimously carried to adopt the following:

Resolution **00-188**, “Resolution Accepting the Report and Adopting Findings Related to Fees Collected for the Development Projects Subject to the Requirements of the Mitigation Fee Act”

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5. Walpert 250 Booster Pump Station and Walpert **250/500** Water Main - Authorization for Increase in Administrative Change Order

Staff report submitted by Deputy Director of Public Works/
Utilities Ameri, dated December 12, 2000, was filed.

Ron **Barklow**, Tieggen Court, asked about the expense, the **noise** and the duration of the project.

It was moved by Council Member **Henson**, seconded by Council Member Hilson, and unanimously carried to adopt the following:

Resolution 00-190, "Resolution Approving an Increase to the Administrative Change Order Authority and Amending Resolution 00-089, as Amended, the Budget Resolution for Capital Projects for Fiscal Year 2000-2001, Relating to Walpert 250 Booster Pump Station and Walpert **250/500** Water Main"

6. Final Tract Map 6411 - **Hayberry** Gardens, LLC (Subdivider/Owner) - Approve the Final Map and Authorize the City Manager to Execute a Subdivision Agreement and Accept Improvements Upon Completion

Staff report submitted by Development Review Services Engineer
Garcia, dated December 12, 2000, was filed.

It was moved by Council Member **Henson**, seconded by Council Member Hilson, and unanimously carried to adopt the following:

Resolution 00-189, "Resolution Approving Final Map for Tract 64 11 -Hayberry Gardens, LLC (Subdivider/Owner) and Authorizing the City Manager to Execute a Subdivision Agreement"

HEARINGS

7. Appeal of Planning Commission's Approval of Administrative Use Permit No. 00-150-28 - Whalen & Company for Metricom (Applicant), **PG&E** (Owner) - Request to Attach a Telecommunication Antenna Facility to a **PG&E** Transmission Tower - The Property is Located at 1620 Highland Boulevard

Staff report submitted by Senior Planner McClellan, dated
December 12, 2000, was filed.

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Planning Director Anderly made the staff presentation. She depicted the approximate size and height of the shelter cabinets under the tower. She explained that the issues for the neighbors were aesthetics, safety and vandalism (health effects and fire hazard) and nuisance effect.

Council Member Jimenez asked whether this is considered a structure, and how many antennas would be installed.

Planning Director Anderly responded that this is not a habitable structure. She responded that there are several installed throughout Hayward including a PGE tower at West Harder.

Council Member **Henson** asked about the monitoring by Metricom.

Planning Director Anderly said they can monitor off site but will come to the site occasionally.

The Metricom representative said the system is linked through their computer. In case of a problem, a field representative would be called who in turn would check the nature of the problem.

Mayor Cooper opened the public hearing at **8:31** p.m.

Lubna Jahangiri, 1624 Highland Boulevard, described the written response they had submitted which was a statement opposing this project. She discussed the steel cabinets and the concrete pad. This will interfere with their view. She asked how Metricom managed to begin building the structure.

Ikram Jahangiri, 1624 Highland Boulevard, discussed the video he was not able to show. He said these antennas would be a permanent hardship and loss of quality of life.

Mayor Cooper asked whether the series of boxes under the antenna would block the view from **the** homes.

Planning Director Anderly described the fence and the cabinets.

Mr. Jahangiri said the issue was crime.

Musa Jahanghir, 1620 Highland Boulevard, asked for further information about the radiation and their safety. He said they signed over much of their property to the City of Hayward for the greenbelt. He described various incidents of crime in their neighborhood.

Jason **Moreno**, 25200 Carlos Bee Boulevard, said he has experience with this location. He described the litter under the tower, and the problems with police response to the area. He asked who would maintain the structure.



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Jeannie Young, 5601 Shattuck Avenue, representing Metricom, described the need for the transmission tower and responded to the neighbor's concerns. She indicated that a recent study said property values are not affected by having antennas in the area. She indicated that they would be using redwood as fencing around the cabinets at the request of the City.

Shahin Sami, 25200 Carlos Bee Boulevard, an engineer of Metricom, explained how vital this area is to the design for Metricom. This site is a very good one for them. He described attempting to maintain a measured distance between its towers for that system.

Council Member **Henson** asked about other experiences when the infrastructure was there already in anticipation of wireless coming in that area.

He was told City guidelines varied, but they have encountered similar situations.

Council Member Ward asked a few design and construction questions. He then asked whether sinking the boxes into the ground might be feasible.

Mr. **Sami** said underground might create a problem with access.

Council Member Hilson commented on the neighbor's concerns outlined in the letter. He said many of the items are not within the purview of the City as they are limited due to the 1996 Telecommunications Act. He commented that as no vandalism reports were logged, it is difficult to assess the danger in the area. He then asked whether the calls would be logged by the Department and then **catalogued** by the address of the complaining party. He was told they would be.

He asked whether a condition of monthly cleaning could be added into the approval of the permit. He was told that they could impose any conditions to make it compatible to the neighborhood. As the owner, **PG&E** is a co-applicant.

Mayor Cooper closed the public hearing at 9:00 p.m.

Council Member **Henson** asked staff whether this is consistent with the Hayward Telecommunications Ordinance. He was told that it is.

PG&E prepared for an application from a telecommunications company by placing some parts of the structure on the tower.

Council Member **Henson** moved the staff recommendation upholding the Planning Commission's approval of the item, with a condition for monthly maintenance to be included. He expressed other concerns, which cannot be dealt with by the City.

Council Member Hilson spoke against the motion saying this is an inappropriate area for the antenna to be in. This structure is fully exposed, in a residential area, and this is not the kind of precedent to set.

It was moved by Council Member **Henson**, seconded by Council Member Dowling, and carried by the following roll call vote to uphold the Planning Commission's decision to approve the administrative use permit and deny the appeal, with the additional condition to have monthly maintenance at the structure.

AYES: Council Members Jimenez, Ward, Dowling,
Henson
MAYOR Cooper
NOES: Council Member Hilson, Rodriquez
ABSENT: None
ABSTAINED: None

Resolution **00-191**, "Resolution Denying Appeal of Planning Commission's Decision to Approve Administrative Use Permit Application No. **00-150-28** - Whalen & Company for Metricom (Applicant) and **PG&E** (Owner)"

Mayor Cooper then introduced the delegation from Beijing, along with Professor Nancy **Mangold** from Cal State, Hayward.

LEGISLATIVE BUSINESS

8. Direction to Staff Regarding Preferred Alternative for Cannery Area Design Concept

Staff report submitted by Senior Planner **Calame**, for December 12, 2000, was filed.

While staff was preparing the visual for their report, Mayor Cooper called a five-minute recess at 9: 18 p.m. Senior Planner Calame then 'described the area under consideration. He noted that the major focus has been on Area 2. He delineated the process and public input. Staff and the consultants believe the Cannery area presents an opportunity to implement the principals of transit-oriented development. Staff asked that Council **confirm** the preferred alternative as a conceptual framework for the Cannery Area, and direct staff to initiate the environmental review process and identify appropriate amendments to the General Plan and Zoning Ordinance for consideration at a later time. He then described the preferred alternative, open space features



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with structures, which will blend into the neighborhood. He and HARD General Manager Asmussen then responded to questions from Council Members.

Council Member Dowling asked about Centennial Park, which already has a problem with visibility and accessibility.

HARD General Manager Asmussen responded that they are encouraged that the proposal will give more security and visibility to the area. It will become more of a community park with a gymnasium and community center when funding is further increased.

Council Member **Henson** said he hoped there would be more pedestrian access, in particular around the commercial areas.

He was told that pedestrian access is encouraged, as well as BART accessibility. This will be a pedestrian friendly area linked to County buildings and another park with much pedestrian access throughout.

Council Member Hilson commented on what he had heard at the public meetings. He asked whether staff or the consultant considered job activity or small businesses on the street for the areas in the panhandles.

Consultant Daniel Solomon responded that there are no definitive prescribed land uses. The live/work usage is compatible with the plan but not mandated. Larger commercial uses would not be permitted due to the parking requirements.

Council Member Hilson said he felt that some commercial activity should be mandated in a particular area. Perhaps a feasibility study should be done to determine whether a larger job generator might not be self-sustaining in these areas. He said he was concerned about the high density of housing in the neighborhood.

Mr. Solomon explained that the intention has been to limit the live/work densities to the present neighborhood. It would be desirable to have retail and neighborhood businesses in the area. If they were mandated, it might retard the growth of the area.

Council Member Ward asked about how long a walk it would be from BART to Grand Street and the community center. He was told it would take about five minutes to walk. He was also told that "B" and "C" Streets would be links to downtown. The intention is to landscape and terminate "C" at the community center.

Regarding the new street, City Manager **Armas** responded that a principle objective was to allow another north/south movement that will not intrude into the neighborhood. He said the neighbors asked for a solution to the neighborhood traffic.

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Council Member Ward said he had received a complaint that there might be too much land set aside for open space. He then asked about moving between places in the District.

He was told that one of the goals of planning the District is to have some part of a park facing for each block.

City Manager **Armas** discussed the addition of the community center. He said it came up in a variety of discussions; the concept is to link the three sites. He responded to Council Member Jimenez' comments about the old Hunt's water tower that Council Members would be considering this site as a historical structure at some point next month.

Council Member Rodriguez asked about the Fuller Street Center in location to the Cannery Park area. She said the neighborhood has been waiting for 25 to 30 years for that to get off the ground, and would not like to see all of this preclude that center.

Mayor Cooper opened the public hearing at 10: **11p.m.**

Ron Peck, 28580 Barn Rock Drive, spoke for clients who are property owners in the Cannery Area at the corner of "C", Grand and "B" Streets. He asked the Council to keep an open mind about which use is appropriate for their location. The Santos' own two acres of the property in that area. The current plan calls for three different uses for this one piece of property. He suggested that a better approach might be to have the entire parcel looked at for one use. He said the direction for the area is rather unclear, whether **office** use or residential use. He then responded to questions from Council Members.

Moses Libitzky, 190 Sandringham Road, Piedmont, owner of property in the area, also asked for flexibility in the area. He said he supports the Council's intentions for the area.

John Steinbuch, 3009 Golden Meadow Drive, a realtor, said his group was retained by one of the commercial owners in the area. He suggested that the planned zone change might decrease the value of the property. He said with this plan, they will lose efficiency in nine acres. He also asked for flexibility in the plan, which he described as an "idealistic" plan. He indicated that there has to be cooperation among the property owners.

Joseph Felson, 1290 B Street, Suite 210, said he has some reservations about the preferred concept. He was not sure that Hayward is ready for urbanization. He suggested automobile parking should be included as interior parking and interior courtyards. He described Atherton Place as a success. This would be row housing. He cautioned Council to be aware of what the market will bear.

John Kyle, 22638 Teakwood, suggested the office development would not work. He recommended going to Sacramento to look at a development downtown which he said works in spite of the fact that it is very dense.

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Bernice Cordoba, 20318 Amador Street, said she helped build the cannery park. She does not want to have to move because they put high rise buildings next door to her home.

Joseph Peacock, 22811 Grand Street, expressed his main concern as the children and Little League. He liked the proposal and asked that the park be kept separate **from** the School District.

Joe Terrasas, 23136 Amador Street, he said the proposal for his area does not make sense, i.e., moving houses into the Centennial Park that they fought for. He suggested that the housing would not alleviate the problems. He said that they need to clean-up Hayward before they start rebuilding.

Ann Terrasas, 23136 Amador Street, said her daughters learned to walk and ride bikes in the Centennial Park. Their neighborhood is not aware of the proposal. The community is mostly bilingual speaking. She asked whether Spanish translation has been available at the meetings.

Jason **Moreno**, 25200 Carlos Bee Boulevard, called attention to the safe open area. He commented on the drug trafficking in the area already. He cited a circumstance from his past police experience as to how the safe open area might not be beneficial to the neighborhood.

John Super, 22884 Myrtle, asked that some of the greenways be used for a skateboard park. He was concerned about whether speed bumps would be incorporated into the plan.

Antonio Silveira, 24084 Myrtle Street, expressed several concerns: 1) that Myrtle Street not have to handle all the traffic, 2) the displaced residents, and 3) that the new park will attract undesirables. It will be too small for much else.

Mayor Cooper closed the public hearing at **10:42p.m.**

Council Member Ward described the evening as very educational. He thanked everyone for their comments and said there are positive things in the plan: the new school, for example. He said there are still issues to be considered such as the design of the units where they are defensible. How to design parks so they are safe? He said there is a lot of work still to be done. Council Member Ward moved, seconded by Council Member Jimenez, the recommendation with the proviso that there will be more details coming to Council at a future date.

Council Member Hilson said there were deficiencies that should be addressed. He did not like the layout, which he described as very rectangular. He wanted more variation. He suggested that the Plan did not fully explore the uses of mixed business activity within the core area itself. He added that having retail in the area is more than an amenity, it is a necessity. He wanted to explore the addition of two more small squares along the panhandle as a traffic calming effort and to increase the pedestrian effect of the neighborhood. He said one way of addressing the lack of

business in the near term is to not mandate business uses until the second phase so that they will occur. He said that, left to chance, they would not occur.

Council Member **Henson** joined Mr. Hilson in his assessment of the grid look. He suggested a circle somewhere in the area. They discussed more of a mixture for the area. They wanted to consider some potential areas for high tech and biotech to break the sea of housing. He then proposed a more thematic design for the area. There is no theme within the area. This is a beginning point from which to move forward.

Council Member Dowling said there are some exciting things about the plan. He is excited about the school and the community center. He asked for two amendments to the motion: one, shelving the housing at Centennial Park, and second, leave the Santos lot as one parcel.

City Manager **Armas** said the proposal is not at the stage to make judgements around zoning as yet. Nothing is final from the land use perspective as of this vote. This is the stage to perform an environmental evaluation about the impacts of what has been suggested. It may be prudent to leave some of the suggestions, which have reservations. Evaluating it would be a good opportunity to understand the effects. He suggested it would be helpful to suggest other uses as well.

Council Member Dowling amended his suggestion to the motion that HARD hold a community meeting with flyers and translators in Spanish and for the Council to attend the meeting at Centennial Park. The maker of the motion accepted this. He also commented about the live/work next to the new Burbank School, generally the live/work is in already existing buildings.

City Manager **Armas** suggested that with the proximity of BART, a new building might be feasible.

Council Member Rodriguez said it is very difficult to suggest that people change their homes. She said this is an urban area. It is not a suburban area any longer. It is important to work with the developers and the landowners. She hopes everyone can join into the program.

Council Member Hilson asked for an amendment for the City to study the inclusion of business activities along the panhandle, as well as a business center or a job center.

Council Member Ward explained that his motion was broad enough for the analysis to proceed based on possible uses other than residential in some of the blocks. He agreed with the amendment but only as an alternative, not a mandate.

The motion passed unanimously.

9. Direction to Staff Regarding Route 238 Bypass Contingency Plan



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Staff report submitted by City Manager **Armas**, dated December **12, 2000**, was filed.

City Manager **Armas** explained the history of the Plan. He indicated that it might be Spring before the Federal Highway Administration issues a Record of Decision. The controversial nature of the project has kept it in litigation. The consent decree has left the door open for continuing litigation. As a result, and with the real traffic problems needing to be addressed in Hayward, staff thought a contingency plan might be developed. Staff wondered whether a more direct access might not be possible, with less controversy, and with convenient and more direct access to the University, and to allow traffic to not deter the revitalization of downtown.

Staff was asking Council to recommend to the Highway Administration that it release the Record of Decision, authorize a Request for Proposal (**RFP**) for professional services to evaluate the Route 238 contingency alignment described in this item, and to seek funding **from** the Alameda County Transportation Authority (**ACTA**) and the County of Alameda in support of these consultant services. This proposal is for the City to have something, in reserve in the event that the current project does not come to fruition. This is not a departure from the original Bypass. This is not an endorsement by the Council or taking action on the alignment. This is a request to release an RFP and for staff to come back in January with a specific recommendation on a **firm** that would be able to undertake this evaluation and outline how the work might be paid for.

Council Member Ward said the presentation suggests that this contingency plan is to be less **controversial** than the previous. He asked how this differs from the voter-supported proposal.

City Manager **Armas** said the Council is not being asked to depart from Measure **L**. This is not in conflict with that measure. The issue is whether there are appropriate trade-off's. Staff wants more complete information available.

Council Member Ward discussed the perception that this is a second controversial option.

City Manager **Armas** said the underlying point is that traffic continues to present a problem, and with the present litigation, as well as the open-ended consent decree and the continued prospect of further litigation, this seems like a workable **alternative**.

Council Member **Henson** asked about the shift of focus that would occur, as well as the seismic issue. He wondered how realistic the tunnel proposal is within the fault corridor.

City Manager **Armas** said the real question is what is the engineering feasibility of it as well as the cost, versus the bridges proposed.

Council Member Hilson clarified that they were being asked to release the Request for Proposal. He indicated that he believed Measure B was merely funding for a roadway from Point A to Point B.

City Manager **Armas** explained that this was the basis for the present lawsuit, whether **CalTrans** had the right to redraw the plan different from what was presented to the voters in an earlier election.

Council Member Jimenez reaffirmed his support of the 238 Bypass but qualified his support for this issue based on funding from Alameda County.

Mayor Cooper opened the public hearing at **11:32** p.m.

Ed **Mullins**, 3 13 - B Sea Mist Court, urged Council to hold this over to provide more research and information.

Ron **Barklow**, 1210 Tiegen Drive, pointed out that Measure B described the roadway that voters voted on. The proposed roadway would be a private driveway to **CalState**. He also discussed the number of houses that would be destroyed.

Audrey **LePell**, 209 Poplar Avenue, speaking for CATS, Citizens for Alternative Transportation Solutions, said they could support the study of the proposed contingency alignment or plan. The Record of Decision is another matter. They maintain that the Federal Government does not have any specific deadlines with regards to issuing this decision. Asking for a quicker decision may be problematical. They do support the funding of the study by **ACTA** or the County. Any alternative to the Route 238 proposal entails controversy. Looking at another study will not cause more problems but may actually solve some of Hayward's many traffic concerns.

Beatrice Thornton, 816 **Pinedale** Court, said she has been upset for a long time about the traffic along Mission Boulevard. She voted for Measure L and is angry that it has not been implemented.

Joseph **Oberman**, 620 Jefferson Street, said he voted for the 238 Bypass several times. All of the right-of-way has been paid for. He wondered whether the underground would tie into the grade separation at Jackson/Mission/Foothill. He was told this was the reason for the study, to understand all of the movements at that location. He suggested that this area is a nightmare. A solution is needed. Hayward is in the middle of everyone else's travel space. They are going somewhere else. We have to solve it. We cannot wait for Caltrans.

Scott Raty, Hayward Chamber of Commerce, 22561 Main Street, said normally the Chamber of Commerce would agree with the need for contingency plans. However, in this case, they believe this plan is flawed, and in conflict with Measure L. It could cause Hayward to lose the 238 Bypass altogether. Requesting money from **ACTA** would only put Hayward's Bypass Measure B money at risk. It would generate the high probability of litigation from parties impacted by the contingency. He maintained that this would be seen by the public as an alternative and a



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weakening of the City's resolve to build the Bypass. They support the request for the Record of Decision.

Jason **Moreno**, 25200 Carlos Bee Boulevard, said the tunnel project is imaginative and could be designed to avoid earthquake issues.

Mayor Cooper closed the public hearing at **11:52** p.m.

Mayor Cooper stated that this proposal is worth taking a risk. She indicated that they have to take the risk. They may have the money. It does not make sense not to try it. The Federal Highway Administration takes longer and longer because they know it is controversial. This is a chance to find out whether it is a feasible project. This is exciting and the last project facing this Council to complete. Resolving this would be positive for the City.

Council Member Hilson said a solution is necessary. We have a traffic problem; we have to solve it. He believes litigation could continue over a number of years. That is not a solution. Exploration of a contingency plan might incorporate some of the positives we need. He said they need to get something done. Forty years have gone by. This may be a solution. This is the vehicle to answer some of the questions people have. He moved, seconded by Mayor Cooper, to accept the staff recommendation to go forward with this study.

Council Member Ward used his Council prerogative to put this issue over for one week. He expressed concern that the public had not been given the opportunity to address the item.

Council Member **Henson** commented that he agreed with Council Member Ward. He asserted that the language of the Resolution include the phrase, "Whereas, the City of Hayward remains committed to Measure L as mandated by the voters.. ."

Council Member Dowling thanked City Manager **Armas** for having the courage to bring the Route 238 Bypass to the foreground. It has been going on for 40 years. He maintained that the current route would not be built. Many elected officials are publicly opposed to it. He hoped Council Members would look at this plan and give it serious consideration.

Council Member Rodriguez said she has been accused of changing her position. There is merit to all sides to this issue. Hayward has a horrendous traffic problem. This solution is well worth studying. There is a need for a regional solution to the problems in the area. She then congratulated the City Manager for having the foresight to come up with a solution.

COUNCIL REPORTS

There were no Council reports

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ADJOURNMENT

Mayor Cooper adjourned the meeting at **12:04** a.m.

APPROVED:

Roberta Cooper, Mayor, City of Hayward

ATTEST:

Angelina Reyes, City Clerk, City of Hayward